

City of Nanaimo

REPORT TO COUNCIL

DATE OF MEETING: 2015-JUL-20

AUTHORED BY: BRIAN ZUREK, SUBDIVISION PLANNER, ENGINEERING & SUBDIVISION SECTION

RE: DEVELOPMENT VARIANCE PERMIT NO. DVP00260 - 70 KENNEDY STREET

STAFF RECOMMENDATION:

That Council issue Development Variance Permit No. DVP260 at 70 KENNEDY STREET to reduce the minimum rear yard setback in order to legalize an existing single family residential dwelling within the Single Dwelling Residential Zone (R1b).

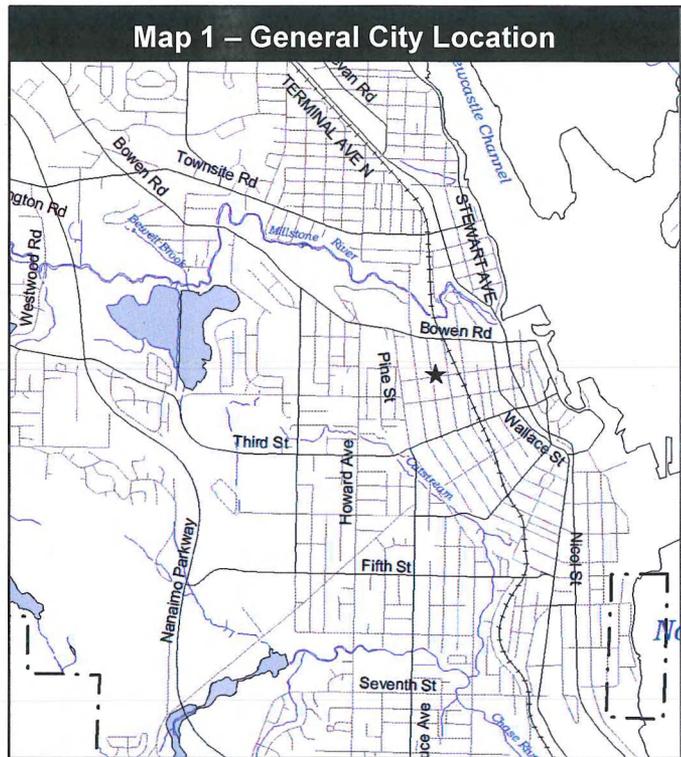
PURPOSE:

The purpose of this report is to seek Council authorization to permit a rear yard setback variance in order to legalize an existing single family residential dwelling.

BACKGROUND:

A development variance permit application was received from TINA-MARIE BROOKS and MARK BROOKS, to vary the provisions of the City of Nanaimo "ZONING BYLAW 2011 NO. 4500" to permit the rear yard setback reduction to 0.74m from 7.5m.

Statutory Notification has taken place prior to Council's consideration of the variance.



Council
 Committee.....
 Open Meeting
 In-Camera Meeting
Meeting Date: 2015-JUL-20

Subject Property

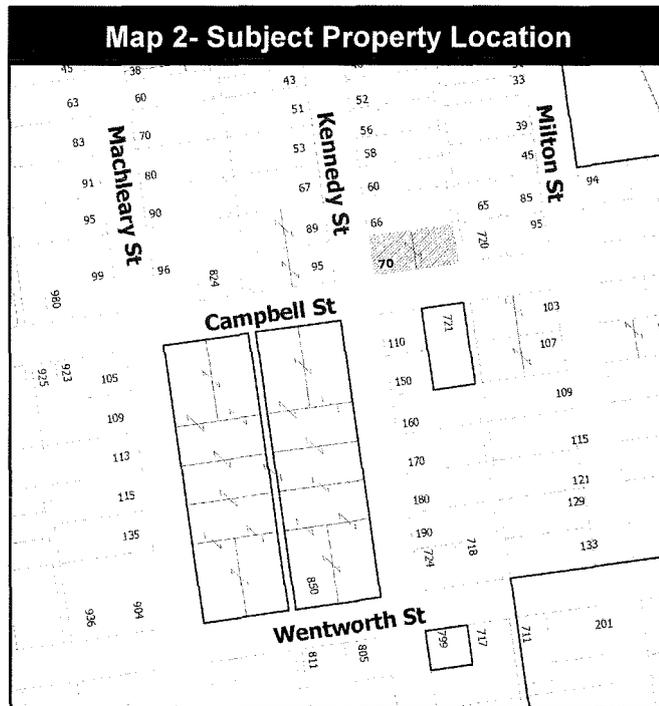
Zoning	Single Dwelling Residential – R1b
OCP	The subject property is designated Neighbourhood.
Neighbourhood Plan	Old City Neighbourhood Concept Plan
Location	The subject property is located in the Single Family Residential sub-area of the Neighbourhood Concept Plan.
Total Area	872m ² (each lot is approximately 436m ²)

DISCUSSION:

Proposed Development

The grid-pattern of streets and lanes creates a regular pattern of blocks throughout the Old City. Although the block pattern may be ordered, the lot sizes and configurations vary throughout the neighbourhood. The property addressed as 70 Kennedy Street is composed of two relatively small and separate freehold lots. The title of both parcels has been held together by various owners since at least 1919.

The existing dwelling was constructed in 1923 and straddles the internal boundary between the parcels.



The applicant proposes to remove part of the existing dwelling and to adjust the boundary between the two lots so that the dwelling may be contained wholly on one lot allowing for the construction of an additional single residential dwelling on the other newly unencumbered parcel. The partial demolition of the existing building will require a building permit to authorize the proposed deconstruction. The boundary adjustment has been applied for (SUB01127) and DVP00260 is a requirement of the boundary adjustment subdivision.

The applicant's proposal locates the dwelling within 0.74m of the rear lot boundary and within the required 7.5m rear yard setback. Therefore, the applicant requires the relaxation of the rear yard setback requirement of the R1 Zone. The site plan proposed by the applicant is included as Schedule A.

The existing land use (single dwelling residential) corresponds to both the Neighbourhood designation of the Official Community Plan, and the Single Family Residential designation of the Old City Neighbourhood Concept Plan.

The applicant's variance rationale for the variance to the rear yard setback of the Zoning Bylaw is included as Schedule B.

Required Variances

- *Minimum Building Setback*
Section 7.5.1 of the City of Nanaimo "ZONING BYLAW 2011 NO. 4500" requires Single Dwelling Residential (R1b) lots to have a minimum building setback to the rear yard of 7.5m. The applicant proposes to vary the minimum building setback to the rear yard to 0.74m, a variance of 6.76m.

STAFF RECOMMENDATION

Staff supports the requested variance and recommends that Council consider this application.

Respectfully submitted,



B. Anderson
MANAGER
PLANNING & DESIGN SECTION

Concurrence by:



D. Lindsay
DIRECTOR
COMMUNITY DEVELOPMENT



T. Seward
ACTING GENERAL MANAGER
COMMUNITY DEVELOPMENT &
PROTECTIVE SERVICES

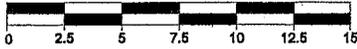
CITY MANAGER COMMENT:

I concur with the staff recommendation.

*Drafted: 2015-JUN-22
Prospero attachment: DVP00260
BZ/ln*

**PROPOSED PLAN OF BOUNDARY ADJUSTMENT OF:
THE SOUTHERLY 66' OF SECTIONS A AND B, BOTH OF LOT 1, BLOCK M,
SECTION 1, NANAIMO DISTRICT, PLAN 584**

Scale 1:250



ALL DISTANCES ARE IN METRES AND DECIMALS THEREOF, UNLESS OTHERWISE NOTED.

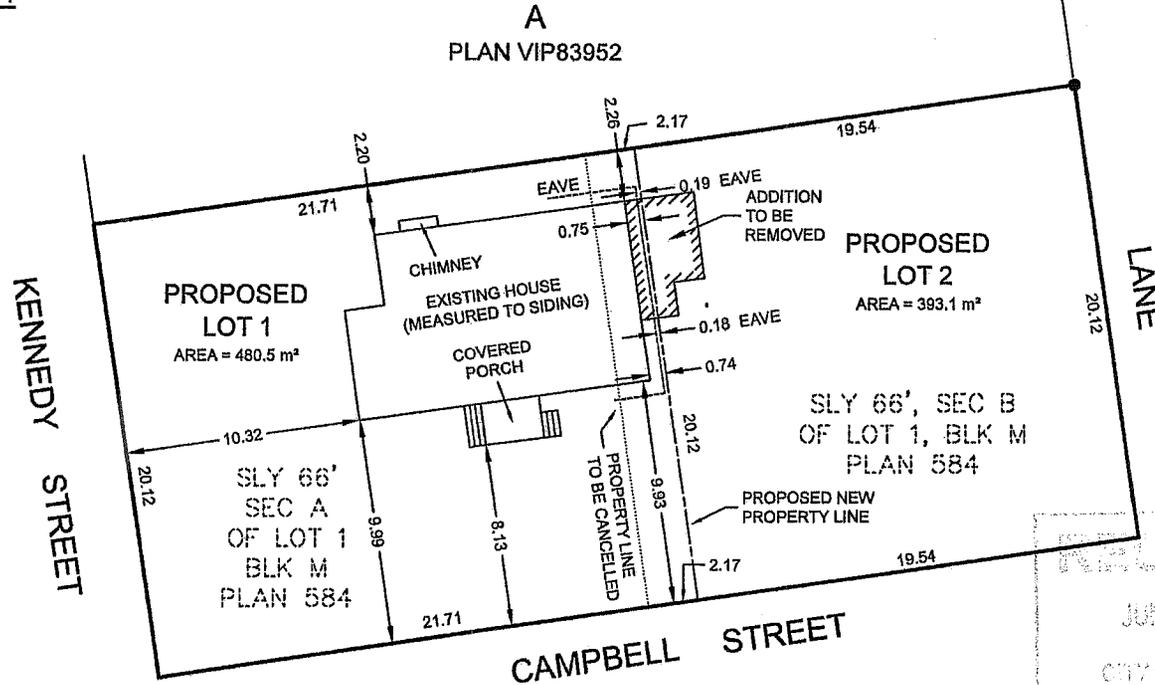
LOT DIMENSIONS ARE DERIVED FROM REGISTERED PLANS AND FIELD SURVEY.

CIVIC ADDRESS: 70 KENNEDY STREET, NANAIMO.

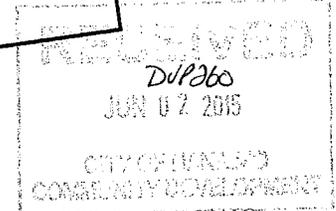
PIDS: 008-843-317 AND 008-843-287

LEGEND:

● DENOTES LEGAL POST FOUND.



THIS PLAN PURPORTS TO POSITION ONLY THE ACTUAL AND/OR PROPOSED IMPROVEMENT(S) SHOWN RELATIVE TO ONLY THE BOUNDARIES SHOWN OF OR APPURTENANT TO THE ABOVE DESCRIBED PARCEL(S). THIS PLAN PROVIDES NO WARRANTY OR REPRESENTATION WHATSOEVER WITH RESPECT TO THE LOCATION OF ANY OTHER ACTUAL OR PROPOSED IMPROVEMENT(S) RELATIVE TO ANY BOUNDARY OF OR APPURTENANT TO THE ABOVE DESCRIBED PARCEL(S). THIS PLAN IS NOT TO BE USED TO RE-ESTABLISH BOUNDARY LINES.



THE SIGNATORY ACCEPTS NO RESPONSIBILITY OR LIABILITY FOR ANY DAMAGES THAT MAY BE SUFFERED BY A THIRD PARTY AS A RESULT OF ANY DECISIONS MADE, OR ACTIONS TAKEN BASED ON THIS DOCUMENT.

THIS PLAN IS CORRECT THIS DATE OF: MAY 28, 2015

André McNICOLL
ANDRÉ MCNICOLL B.C.L.S.
THIS DOCUMENT IS INVALID UNLESS SIGNED AND SEALED.

Harbour City Land Surveying Ltd.
1825 LATIMER ROAD © 2015
NANAIMO BC V9S 5H2
PHONE: 250-758-4180

THIS PARCEL MAY BE SUBJECT TO REGISTERED CHARGES, INTERESTS AND LEGAL NOTATIONS AS SHOWN ON TITLES NO: CA3559895 AND CA3559898.

THIS PLAN DOES NOT PURPORT TO VERIFY COMPLIANCE WITH THE RESTRICTIONS THEREIN.

DRAWING: 15034-PROPOSED-PL-ADJUSTMENT.DWG
LAYOUT: 1

**Letter of Rationale,
In Support of Variance**

DEVELOPMENT VARIANCE RATIONALE

70 Kennedy Street, Nanaimo, BC

Development Permit Area 9

The Southerly 66 feet of Section A of Lot 1, Block M, Section 1,
Nanaimo District Plan 584

Related Property: The Southerly 66 feet of Section B of Lot 1, Block M, Section 1,
Nanaimo District Plan 584

Background:

Section A & B of Lot 1 located at 70 Kennedy Street are two separate lots with two separate PIDs. The existing house on Section A is encroaching onto Section B.

The subject property Section A is facing two streets (Kennedy Street & Campbell Street), as is the adjacent property Section B (Campbell Street & Lane)

Both properties currently have the same owner.

Purpose:

To have the residence on Section A be contained within the boundaries of the property parcel.

The required rear setback is 7.5 meters. The applicant is requesting to reduce the setback to 0.18 meters in order to legalize the siting of the existing single family residential dwelling.

Zoning regulations:

Nanaimo Zoning Bylaw 4500 - Single Family Residential (R1B). Section 7.5.1 Siting of Buildings – a rear yard of 7.5m must be provided.

Concept:

To remove the building 'addition' constructed on the existing residence (under a separate, future Building Permit Application) and adjust the boundary for Section A to the East so that the entire residence is located within Section A boundaries.

Rationale:

Comparables – Within the City Center neighbourhood, it is not uncommon to see residential buildings build in the first half of the 20th century that do not meet the rear yard setback prescribed in Bylaw 4500, some of which have been provided a variance.

Improvement - This request for variance will improve the condition of the subject property, and will meet BC Building Code. It does not currently meet Code at the rear property line.

The condition on the adjacent Section B property is significantly improved with the encroachment from Section A removed.

Variance meets BC Building Code Requirements - 9.10.15 Spatial Separation Between Houses, provides for a limiting distance of 'zero' in an un sprinklered residential building (9.10.15.3), if:

- 9.10.15(4) Maximum Area of Glazed Openings in exterior wall equals zero (provided)
- 9.10.15(5) Construction of exposing building face is 45 minutes Fire Resistance Rating (provided)
- 9.10.15(5) Cladding of the exposed building face is non-combustible construction installed in accordance with Section 9.27 (provided)
- 9.10.15.5(9) Roof soffits above exposing building face shall not project to less than 0.45m from property line (provided)

In keeping with OCP - This variance request supports the intent of DPA9 guidelines with respect to the City Center neighbourhood and will encourage development and infill of the Section B property which is consistent with the guideline.

Local Government Act - Section 911(9) and (10) of the Local Government Act states "If the use and density of the buildings and structures conform to a bylaw under this division...but the siting, size or dimensions of a building or structure constructed before the bylaw was adopted does not conform with the bylaw,...the building or structure ... may be maintained, extended or altered ... only to the extent that the repair, extension or alteration would, when completed, involve no further contravention of the bylaw than that existing at the time of the repair, extension or alteration was started."